

REMARKS

Claims 25-54 are pending. By this Amendment, claims 25, 27-30, 37 and 41 are amended. Claims 49-54 are added to recite features removed from claims 25, 27-30 and 37. Thus, no new matter has been added by the above amendments.

On page 2, the Office Action objects to the lack of drawings. Drawings for the application were submitted, as evidenced by the inclusion of drawings in the publication of the application (Pub. No. US 2005/0225748 A1) on October 13, 2005.

On page 2, the Office Action rejects claims 25, 28-30 and 37 under 35 U.S.C. §112, second paragraph, as indefinite. Claims 26, 27, 31-36 and 38-40 are also rejected because they depend from claims 25 and 37. Claims 25, 28-30 and 37 are amended to delete the objected-to language. Thus, it is respectfully requested that the rejection of claims 25-40 be withdrawn.

The Office Action rejects claims 25-30, 41, 42, 44 and 46-48 under 35 U.S.C. §102(b) over Braunecker (EP1491855). The Examiner's use of Braunecker (EP1491855) as prior art is improper.

Under 35 U.S.C. §363, an international application designating the United States shall have the effect, from its international filing date under article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office. On May 17, 2003, Applicant filed international application number PCT/EP03/05206 in the European Patent Office, claiming priority to Swiss patent Application 2002 0956/02 filed June 7, 2002, and designating the United States. Thereafter, Applicant entered the national stage under 35 U.S.C. §371 by filing a copy of the international application, and the national filing fee on December 6, 2004. Accordingly, the effective U.S. filing date of the present U.S. application is May 17, 2003. Braunecker was published on December 29, 2004. Because the publication

date of the reference relied upon by the Examiner is after Applicant's U.S. filing date, May 17, 2003, the reference is not prior art against this application.

Withdrawal of the rejection is requested.

Because Braunecker also is used in the 35 U.S.C. §103(a) rejections, those rejections are also improper and must be withdrawn.

The Examiner states that Applicant's claim for priority is invalid. The Examiner's conclusion is incorrect.

The Office Action argues that the claim for priority in this application is improper, and priority is not accorded by the Patent Office, because the parent PCT application was filed and published in a language other than English. This position of the Office Action is incorrect as a matter of law. Applicant respectfully submits that the Examiner has confused this issue of the qualification of a reference as prior art under 35 U.S.C. §102(e) with the issue of a claim for priority under 35 U.S.C. §119(a)-(d). While 35 U.S.C. §102(e) provides that in order to rely on an international filing date for prior art purposes, the international application must have been filed on or after November 29, 2000, it must have designated the U.S., and the international publication under PCT Article 21(2) by WIPO must have been in English, this statute is irrelevant with respect to Applicant's claim for priority. Applicant is not relying on the international filing date for prior art purposes. Applicant, however, is relying on the international filing date for the purpose of claiming priority and for establishing Applicant's U.S. filing date. As discussed below, Applicant's claim for priority is proper.

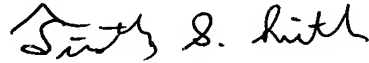
Under 35 U.S.C. §119(a)-(d), an application for patent for an invention filed in this country by any person who has previously regularly filed an application for a patent for the same invention in a foreign country shall have the same effect as the same application would have if filed in this country on the date on which the application for patent for the same invention was first filed in such foreign country, if the application in this country is filed

within twelve months from the earliest date on which such foreign application was filed. As discussed above, the effective U.S. filing date of this U.S. application is May 17, 2003 (the PCT application filing date). Applicant's claim priority to Swiss patent Application 2002 0956/02 filed June 7, 2002. Because Applicant's U.S. filing date is within 12 months of the Swiss Application filing date, Applicant's claim for priority is proper. Accordingly, because Applicant has properly claimed priority in this application to the foreign filed application, that claim for priority must be acknowledged by the Examiner. Thus, Applicant respectfully requests that the Examiner acknowledge Applicant's claim for priority in the next Office Action.

In view of the foregoing, Applicant respectfully submits that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable to place this application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

Respectfully submitted,



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JAO:TSS/eks

Attachment:
Amendment Transmittal

Date: July 31, 2006

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